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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/502,389

07/26/2004

Tatsuo Ito

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08/28/2006

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EXAMINER

VON BUHR, MARIA N

ART UNIT

PAPER NUMBER

2125

DATE MAILED: 08/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/502,389	<b>Applicant(s)</b> ITO ET AL.	
	<b>Examiner</b> M.N. Von Buhr	<b>Art Unit</b> 2125	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 23-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. Examiner acknowledges receipt of Applicant's response to the previous Office action, received 20 June 2006; which amends claims 23, 26-28, 30-32, 35, 36, 39-41, 43, 45, 48, 49, 52-54 and 56. Claims 23-57 remain pending in this application.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. In response to Applicant's amendment and remarks, the 35 U.S.C. §112, second paragraph, rejection of the claims is deemed to have been overcome and is, therefore, withdrawn.
4. In response to Applicant's amendment and remarks, concerning the 35 U.S.C. §102(a) and (e) rejection of claims 23-25, 28, 30, 32-34, 37, 39, 45-47, 50 and 52, as being clearly anticipated by Mori et al. (U.S. Patent Application Publication No. 2002/0143424; now issued as U.S. Patent No. 6,725,122), Examiner notes the following:
  - a. As presented in the previous Office action, Mori et al. disclose a "method of selecting a photomask manufacturer" that "includes the steps of storing bidding data sent from a photomask manufacturer, correcting a responded delivery date included in the received bidding data to a corrected delivery date based on a delivery date achieving ratio in a last month, storing priorities relating to a delivery date, technology, order reception and price, reading the corrected delivery date for each of the manufacturers making a bid for a product number to be ordered when the product number is input, calculating total evaluation for each photomask manufacturer based on the plurality of priorities, and selecting the photomask manufacturer satisfying the corrected delivery date and providing the highest result of total evaluation, as the receiver of the order" (the abstract).
  - b. As per the claims, Mori et al. teach that it was well known in the art that "information relating to the specifications of the photomask is sent from the orderer, i.e., IC chip manufacturer to the receiver of the order, i.e., a photomask manufacturer in the form of data stored in a magnetic tape or via an online system. The photomask manufacturer produces manufacturing data for the photomask based on the information relating to the received specifications. In addition to this, order information relating to a quantity of photomasks, a requested-date of delivery and others is sent from the IC chip manufacturer to the photomask manufacturer via a telephone or online. Based on the order information, the photomask manufacturer prepares information (manufacturing priority, product number, quantity, delivery destination, delivery date and others) as well as management data including information required for quality management. The prepared management data is sent to the photomask production line. The photomask

production line produces the photomasks based on the manufacturing data and management data. The photomasks are produced by an electron beam exposing device, which is controlled in accordance with the manufacturing data” (paragraphs 5-6). Mori et al. goes on to further teach that “Japanese Patent Laying-Open No. 9-180980 has disclosed the foregoing type of manufacturing system for the IC chips. In this IC chip manufacturing system, an interconnection pattern is changed in accordance with specifications required by a customer. The system includes an input terminal, a processing unit and a production line. The input terminal is used by customers purchasing the IC chips. The input terminal includes an input circuit for entering the information such as specifications and quantity of IC chips requested by the customer. The processing unit includes a preparing circuit, which operates based on the information entered through the input terminal to prepare data required for an exposing step and data required for production management and quality management of the IC chip, and also includes a transmission circuit for transmitting the data prepared by the preparing circuit to the production line. The production line produces the IC chips in accordance with the data transmitted from the processing unit” (paragraph 7). Also see, at least, Figs. 1, 7, 8, 15, 18 and 24, with associated text; including paragraphs 19-20, wherein the “technology data” of Mori et al. is defined as pertaining to the actual manufacturing of the item (i.e.; the manufacturing process/device).

c. Applicant argues that “Mori fails to teach or suggest a process by which a wafer maker gathers additional information on the device maker's manufacturing process and apparatus, which information is not part of the device maker's order specification” (page 13 of the instant response). This argument is not persuasive, because it is not clearly supported by the instant claim language. There is nothing in the instant claim language which requires the interpretation that a “wafer maker” receives information from a “device maker,” nor that such information is “not part of the device maker's order specification.” All that the instant claim language requires is that (1) device manufacturing information be received (taught by Mori et al. as being the specifications for the manufacture of a specified semiconductor device), and that (2) such information be used for choosing a wafer manufacturing process (taught by Mori et al. as being selecting a particular photomask process by a particular manufacturer).

d. Applicant further argues that “Mori also fails to teach or suggest the additional step of the wafer maker analyzing that additional information as to the device maker's manufacturing process and apparatus, and using the results of that analysis in combination with the device maker's order specification to select a wafer making process from among plural wafer manufacturing processes and characteristics. Such analysis allows a wafer maker to select an optimal wafer manufacturing process for each device maker, device manufacturing process, and device manufacturing apparatus” (page 13 of the instant response). This argument is not persuasive. Again, the argument it is not clearly supported by the instant claim language,

since there is no support for Applicant's argued ability to "select an optimal wafer manufacturing process for each device maker, device manufacturing process, and device manufacturing apparatus."

e. Applicant further argues that "Mori teaches a method of selecting a photomask manufacturer, the present invention is directed to selecting an ideal wafer manufacturing process" (page 13 of the instant response). This argument is not persuasive. Although Examiner agrees with Applicant's characterization of Mori et al., in this regard, Examiner disagrees with the implication that "selecting a photomask manufacturer" is not analogous to "selecting an ideal wafer manufacturing process," since selecting/using a photomask is a well known step within/part of a wafer manufacturing process.

f. Accordingly, claims 23-25, 28, 30, 32-34, 37, 39, 45-47, 50 and 52 stand rejected under 35 U.S.C. §102(a) and (e), as being clearly anticipated by Mori et al. (U.S. Patent Application Publication No. 2002/0143424; now issued as U.S. Patent No. 6,725,122).

5. Applicant has provided no further remarks concerning the 35 U.S.C. §103(a) rejection of claims 26, 27, 29, 31, 35, 36, 38, 40-44, 48, 49, 51 and 53-57, as being unpatentable over Mori et al. (U.S. Patent Application Publication No. 2002/0143424; now issued as U.S. Patent No. 6,725,122), as applied to claims 23, 32 and 45 above, further in view of Kurosawa (U.S. Patent No. 6,704,093). Instead, Applicant has relied upon previously presented arguments. Accordingly, since such arguments were found not to be persuasive, as addressed above, the rejection stands and is repeated below for Applicant's convenience:

Mori et al. teach Applicant's invention substantially as instantly claimed, except for the presence of the "ABC parameters." In this regard, as per claims 26, 27, 35, 36, 41, 42, 48, 49, 54 and 55, the mere presence of a particular type of data, without such data actually being utilized in any way, is not patentably distinguishing, since it is well within the knowledge of one having ordinary skill in the art to include any desired type of data, based upon implementation specifics of the system. In other words, it would have been obvious, to one having ordinary skill in the art, at the time the instant invention was made, to include any type of data in the system of Mori et al., based upon such implementation criteria as report contents and/or items to be manufactured having specific data constraints/characteristics. Furthermore in this regard, and further as per claims 43, 44, 56 and 57, Kurosawa teaches that it was well-known in the semiconductor manufacturing art to use such "ABC parameters" to control wafer manufacturing processes (see, at least, col. 15, lines 12-37). It would have been obvious, to one having ordinary skill in the art, at the time the instant invention was made, to utilize such parameters in the system of Mori et al., because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR §1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR §1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M.N. Von Buhr whose telephone number is 571-272-3755. The examiner can normally be reached on M-F (9am-5pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on 571-272-3749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



M.N. Von Buhr  
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